

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15169 of the Copper Beach Valley Company, N.V., pursuant to 11 DCMR 3108.1 and 3107.2, for a special exception under Sub-section 411.11 to allow a mechanical penthouse which does not meet the setback requirements, and a variance from the rear yard requirements (Sub-section 774.1) for construction of a retail/office building with an accessory parking garage in a C-4 District at premises 1430 K Street, N.W., (Square 218, Lots 808 and 823).

HEARING DATE: November 8, 1989
DECISION DATE: November 8, 1989 (Bench Decision)

DISPOSITION: The Board GRANTED the application by a vote of 4-0 (Paula L. Jewell, Lloyd Smith, William F. McIntosh and Carrie L. Thornhill to grant; Charles R. Norris not present, not voting).

FINAL DATE OF ORDER: May 17, 1991

ORDER

The Board GRANTED the application by its order dated May 17, 1989. 11 DCMR 3104.1 provides that:

"No order of the Board authorizing the erection or alteration of a structure shall be valid for a period of longer than six (6) months unless, within that period the plans for the erection or alteration are filed for the purpose of securing a building permit."

The Board's order sets forth on Page 4 that:

"THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS."

By letter dated October 25, 1991, counsel for the applicant requested the Board to extend the six month validity of its Order. The reason for the request was that the applicant has been unable to go forward with the project because of lengthy court proceedings due to the fact that a tenant refused to vacate the premises. The court proceedings have recently been settled, however, the applicant was unable to proceed with preliminary development activities, such as asbestos testing, or with plans to raze the

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existing structure prior to the building becoming completely vacant. The applicant now wishes to proceed with the project.

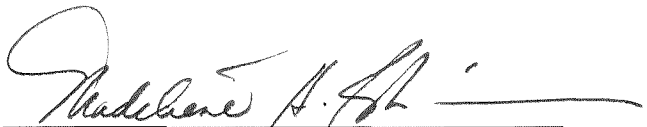
The Board concludes that the applicant is seeking a waiver of Section 3104.1 of the Zoning Regulations. The Board further concludes that it has no authority to waive the requirements of the Zoning Regulations. Accordingly, it is **ORDERED** that the motion is **DENIED** for lack of jurisdiction. The Board notes that the applicant may file a new application before the Board requesting re-instatement of its prior order if it is unable to meet the building permit filing deadline of November 27, 1991. The Board further notes that the Zoning Commission may determine that the revision of Section 3104.1 merits its review and consideration.

DECISION DATE: November 6, 1991

VOTE: 3-0 (Carrie L. Thornhill and Paula L. Jewell to deny; Lloyd Smith to deny by proxy; Sheri M. Pruitt and Charles R. Norris not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


MADELIENE H. ROBINSON
Acting Director

FINAL DATE OF ORDER: _____

NOV 27 1991

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

15169Order/SS/bhs

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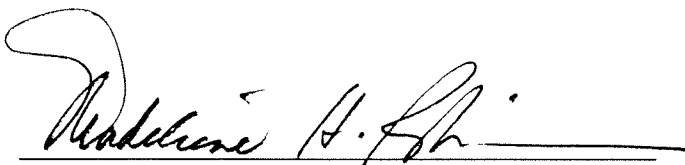
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As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on NOV 27 1991 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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Washington, D.C. 20009


MADELIENE H. ROBINSON
Acting Director

DATE: NOV 27 1991

15169Att/bhs